

**ASSEMBLY BILL**

**No. 2552**

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**Introduced by Assembly Member Torres**

February 24, 2012

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An act to amend Section 23152 of the Vehicle Code, relating to driving under the influence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as introduced, Torres. Driving under the influence.

Existing law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug to drive a vehicle.

This bill would make it a crime for a person who has any level of cannabinoids or synthetic cannabinoid compound, as defined, in his or her blood or urine to drive a vehicle. This bill would establish a rebuttable presumption that a person had cannabinoids or synthetic cannabinoid compound in his or her blood or urine at the time he or she drove a vehicle if the substance is present in his or her blood or urine at the time of a chemical test performed within three hours after driving. This bill would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 23152 of the Vehicle Code, as amended by Section 31 of Chapter 455 of the Statutes of 1995, is amended to read:

23152. (a) It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.

(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) It is unlawful for any person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section 383.51 or 391.15 of Title 49 of the Code of Federal

1 Regulations do not require the state to prohibit operation of  
2 commercial vehicles when the operator has a concentration of  
3 alcohol in his or her blood of 0.04 percent by weight or more.

4 (f) The director shall submit a notice of the determination under  
5 subdivision (e) to the Secretary of State, and this section shall be  
6 repealed upon the receipt of that notice by the Secretary of State.

7 (g) *It is unlawful for any person who has any level of*  
8 *cannabinoids or synthetic cannabinoid compound in his or her*  
9 *blood or urine to drive a vehicle. For purposes of this subdivision,*  
10 *“synthetic cannabinoid compound” has the same meaning as*  
11 *defined in Section 11357.5 of the Health and Safety Code. For*  
12 *purposes of this subdivision, it is a rebuttable presumption that a*  
13 *cannabinoid or synthetic cannabinoid compound is in a person’s*  
14 *blood or urine at the time of driving the vehicle if the substance*  
15 *is present at the time of the performance of a chemical test within*  
16 *three hours after driving.*

17 SEC. 3. Section 23152 of the Vehicle Code, as amended by  
18 Section 32 of Chapter 455 of the Statutes of 1995, is amended to  
19 read:

20 23152. (a) It is unlawful for any person who is under the  
21 influence of any alcoholic beverage or drug, or under the combined  
22 influence of any alcoholic beverage and drug, to drive a vehicle.

23 (b) It is unlawful for any person who has 0.08 percent or more,  
24 by weight, of alcohol in his or her blood to drive a vehicle.

25 For purposes of this article and Section 34501.16, percent, by  
26 weight, of alcohol in a person’s blood is based upon grams of  
27 alcohol per 100 milliliters of blood or grams of alcohol per 210  
28 liters of breath.

29 In any prosecution under this subdivision, it is a rebuttable  
30 presumption that the person had 0.08 percent or more, by weight,  
31 of alcohol in his or her blood at the time of driving the vehicle if  
32 the person had 0.08 percent or more, by weight, of alcohol in his  
33 or her blood at the time of the performance of a chemical test  
34 within three hours after the driving.

35 (c) It is unlawful for any person who is addicted to the use of  
36 any drug to drive a vehicle. This subdivision shall not apply to a  
37 person who is participating in a narcotic treatment program  
38 approved pursuant to Article 3 (commencing with Section 11875)  
39 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety  
40 Code.

1     *(d) It is unlawful for any person who has any level of*  
2     *cannabinoids or synthetic cannabinoid compound in his or her*  
3     *blood or urine to drive a vehicle. For purposes of this subdivision,*  
4     *“synthetic cannabinoid compound” has the same meaning as*  
5     *defined in Section 11357.5 of the Health and Safety Code. For*  
6     *purposes of this subdivision, it is a rebuttable presumption that a*  
7     *cannabinoid or synthetic cannabinoid compound is in a person’s*  
8     *blood or urine at the time of driving the vehicle if the substance*  
9     *is present at the time of the performance of a chemical test within*  
10    *three hours after driving.*

11    ~~(d)~~

12    *(e) This section shall become operative only upon the receipt*  
13    *by the Secretary of State of the notice specified in subdivision (f)*  
14    *of Section 23152, as added by Section 25 of Chapter 1114 of the*  
15    *Statutes of 1989.*

16    SEC. 4. No reimbursement is required by this act pursuant to  
17    Section 6 of Article XIII B of the California Constitution because  
18    the only costs that may be incurred by a local agency or school  
19    district will be incurred because this act creates a new crime or  
20    infraction, eliminates a crime or infraction, or changes the penalty  
21    for a crime or infraction, within the meaning of Section 17556 of  
22    the Government Code, or changes the definition of a crime within  
23    the meaning of Section 6 of Article XIII B of the California  
24    Constitution.